THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 11078 of 2000

Dated: 07.11.2007

Between:

Nelluru Suryanarayana

... Petitioner

AND

The District Collector,
Khammam District, Khammam
& another.

... Respondents

Counsel for the petitioner : Sri Badana Bhaskar Rao for
Sri P.V.S.S. Rama Rao

Counsel for the respondents : Assistant Government Pleader for
Land Acquisition

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ORDER:-

This writ petition is filed for a writ of mandamus to declare the inaction of the respondents in referring the petitioner's application dated 18.02.1996 to the civil Court for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act').

The lands belonging to the petitioner of an extent of Ac.4.28 guntas and Ac.0.12 guntas in Sy.Nos.5/1/2 of Khankhanpeta Village, Kalluru Mandal, Khammam District were acquired for establishment of market yard at Kalluru. An award was passed on 25.01.1996 by respondent No.2. After receiving the amounts under the award, the petitioner claims to have made a request through his letter dated 18.02.1996 for reference of the dispute relating to fixation of compensation to the competent civil Court. The petitioner filed this writ petition with the grievance that his request was not responded to by the respondents.

Sri G. Ramachandra Rao, Revenue Divisional Officer, and Land Acquisition Officer, respondent No.2, filed a counter-affidavit, wherein while admitting that the petitioner's lands were acquired, he stated that the award was passed after taking the consent of the petitioner. He denied the averment contained in the affidavit filed in support of the writ petition that he obtained the petitioner's signatures on blank papers. Respondent No.2 further averred that the petitioner gave his consent letter on a stamp paper purchased

by him and the consent was given at his will. He also denied the averment of the petitioner that he made a request on 18.02.1996 for referring the matter to the civil Court.

Heard Sri Badana Bhaskar Rao representing Sri P.V.S.S. Rama Rao, learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition.

A perusal of the award shows that the same was passed with the consent of the petitioner. Except the Ipsi Dixit of the petitioner contained in the affidavit filed in support of the writ petition, no prima facie material is filed to show that his consent was obtained on blank papers by misleading him. Even the alleged representaion dated 18.02.1996 under which the petitioner claimed to have made a request for reference does not contain any allegation that he did not give his consent with free will or that he was misled into giving the consent. The petitioner has not filed any reply affidavit controverting the allegations contained in the counter-affidavit. No proof of service of representation dated 18.02.1996 has been filed by the petitioner. Under Section 18 of the Act, making of a request within the time stipulated therein is a *sine qua non* for reference of dispute to the civil Court for enhancement of compensation. Neither the petitioner is able to show that a request was indeed sent on 18.02.1996 nor the request so made was received within the time by the land acquisition officer.

In view of the above, the petitioner failed to make out any case for grant of relief in the writ petition.

The writ petition is therefore dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.14100 of 2000 filed by the petitioner for interim relief is also dismissed.

C.V. NAGARJUNA REDDY, J

Date: 07.11.2007
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